

NO PROTEST REQUIRED
Release 1983

Date 11-7-83

Surname [REDACTED]

SEP 20 1983

Dear Applicant.

We have considered your application for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1934.

The information submitted indicates that you were incorporated under the laws of the State of [REDACTED] on [REDACTED], for the purpose of fostering and promoting the development and continuance of a county "transportation brokerage system" and "to actively develop and implement methods for matching specific transportation needs with available resources."

You are engaged in providing an information and referral service for county residents who need assistance in securing transportation, in promoting ride-sharing programs, in recruiting and training volunteers to provide transportation to county residents when no other form of transportation is available, and in sponsoring a driver's training program.

You also provide technical assistance to transit providers in need of information in such areas as insurance, cost accounting, routing, dispatching and vehicle purchasing. Further, you match transportation demands in the county with transportation resources - monitoring resultant contracts - and assess a fee (normally [REDACTED]% of a contract) against those where transportation demand has been met through your efforts.

Your primary sources of financial support are "brokerage fees" and receipts from various governmental agencies.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, educational, scientific, and other specified purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified in subdivision (i) of section 1.501(c)(3)-1(d)(1) unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 1.501(c)(3)-1(d)(2) of the regulations provides that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of "charity" as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Section 1.501(c)(3)-1(s)(1) of the regulations provides that, in general, an organization may meet the requirements of section 501(c)(3) of the Code although it operates a trade or business as a substantial part of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes and if the organization is not organized or operated for the primary purpose of carrying on an unrelated trade or business, as defined in section 513. In determining the existence or nonexistence of such primary purpose, all the circumstances must

be considered, including the size and extent of the trade or business and the size and extent of the activities which are in furtherance of one or more exempt purposes.

Rev. Rul. 69-175, 1969-1 C.B. 149, holds that a nonprofit organization formed by parents of pupils attending a private school, that provides school bus transportation for its members' children, serves a private rather than a public interest.

The U.S. Supreme Court held that a better business bureau was not exclusively educational or charitable. The organization's activities were in part aimed at promoting the prosperity and standing of the business community even though there was also benefit to the public; therefore, a substantial private purpose, precluding exemption, was evidenced. Better Business Bureau v. United States, 326 U.S. 279 (1945).

The information submitted indicates that you provide technical assistance to transit providers in need of information in such areas as insurance, cost accounting, routing, dispatching and vehicle purchasing. You also match transportation demands in the county with transportation resources - monitoring resultant contracts - and assess a "brokerage fee" against those whose transportation demand has been met through your efforts.

In so doing, you are operating in furtherance of private interests within the meaning of section 1.501(c)(3)-1(d)(1)(i) of the regulations. You are not operated exclusively for one or more exempt purposes, because, pursuant to section 1.501(c)(3)-1(c)(1) of the regulations, more than an insubstantial part of your activities is not in furtherance of an exempt purpose.

Accordingly, based on the information presented, we conclude that you are not exempt from federal income tax under section 501(c)(3) of the Code. You are required to file federal income tax returns on Form 1120.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 21 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices requirements.

Kurtz
W.H.

- 4 -

[REDACTED]

If we do not hear from you within 21 days, this ruling will become final and copies of it will be forwarded to the District Director, Cincinnati, Ohio. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7420(b)(2) of the Internal Revenue Code provides, in part, that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]

[REDACTED]

Chief, Rulings Section
Exempt Organizations
Technical Branch

cc: DD, Cincinnati
Attn: EO Group

[REDACTED]

INTERNAL
REVENUE SERVICE
CINCINNATI, OHIO

RECEIVED
EP/EO DIV.